



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of )  
Bardy ) Group Art Unit: *Unassigned*  
5 Serial No: *Unassigned* 10 646 037 )  
Examiner: *Unassigned*  
Filed: August 22, 2003 )  
For: System And Method For Providing Feedback )  
To An Individual Patient For Automated )  
Remote Patient Care )

15 **PETITION TO THE COMMISSIONER UNDER 37 CFR 1.181(a)**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

20 Sir:

Applicant respectfully petitions the Commissioner to invoke supervisory authority pursuant to 37 CFR 1.181(a), to direct the mailing of a Filing Receipt with a filing date of August 22, 2003 and to assign a Serial Number for a utility  
25 patent application entitled, "System And Method For Providing Feedback To An Individual Patient For Automated Remote Patient Care," filed August 22, 2003, in the U.S. Patent and Trademark Office (USPTO) by Express Mail pursuant to 37 CFR 1.10. Alternatively, if the USPTO is unable to locate Applicant's file, Applicant requests a reconstruction of the file pursuant to 37 CFR 1.251.

30 **Statement of Facts**

On August 22, 2003, Applicant filed a utility patent application, entitled "System And Method For Providing Feedback To An Individual Patient For Automated Remote Patient Care." The application was deposited with the U.S. Postal Service "Express Mail Post Office to Addressee" under 37 CFR 1.10 and  
35 certified by Ms. Larissa V. Pigott on August 22, 2003.

The patent application filing consisted of the following items:

- (1) Utility Patent Application Transmittal

- (2) Fee Transmittal for FY 2003
- (3) Specification, Claims, and Abstract (36 pages)
- (4) Drawing Transmittal Letter
- (5) Formal Drawings (21 sheets)
- 5 (6) Declaration And Power of Attorney For Patent Application  
(2 pages)
- (7) Information Disclosure Statement (7 pages)
- (8) U.S. Patent No. 6,416,471
- (9) Filing Fee Amount: Check for \$750.00
- 10 (10) Return Postcard
- (11) Express Mail Mailing Label, Certificate No. EV317784518US

Copies of the foregoing items are provided in Attachment 1.

**Request for Filing Receipt, Serial Number and Filing Date**

15 To date, Applicant has not received the return postcard or a Filing Receipt  
acknowledging the receipt and filing of the application in the USPTO. Applicant  
respectfully submits that such filing was duly and properly effectuated pursuant to  
37 CFR 1.53(b) and is therefore entitled to acknowledgement of such filing by the  
mailing of a Filing Receipt and assignment of a Serial Number and filing date of  
20 August 25, 2003. Applicant offers the following evidence in support of this  
assertion.

First, the application papers identified above were sent via U.S. Postal  
Service (USPS) Express Mail pursuant to 37 CFR 1.10 under Express Mail  
Mailing Label, Certificate No. EV317784518US, which was deposited at 8:55pm  
25 on August 22, 2003 and were delivered to the USPTO on August 25, 2003. USPS  
delivery records show that a Mr. James Steckel, USPTO, signed the Express Mail  
Mailing Label, Delivery Section, Certificate No. EV317784518US, on August 25,  
2003, at 08:53am, in Arlington, VA 22202. A printout of the USPS tracking log  
printed from the USPS Website showing the deposit, transit and delivery of the  
30 application papers is provided in Attachment 2. A copy of a facsimile received  
from the USPS showing the Express Mailing Label, Delivery Section, is provided

in Attachment 3. In further support, a declaration executed by Ms. Pigott certifying deposit of the application papers in the USPS "Express Mail Post to Addressee" on August 22, 2003 is provided in Attachment 4.

5 Additionally, the application papers included payment, in full, for the filing fee in the amount of \$750.00. The payment was tendered by business check number 11615, drawn on the Wells Fargo Business Bank account of Applicant's representative and properly labeled with Attorney Docket Number 020.0347.US.CON. Applicant's representative's bank statement reflects that the check was cashed on August 28, 2003, and bank records show that the cancelled  
10 check was stamped by the USPTO on August 26, 2003. A copy of the cancelled check is provided in Attachment 5.

**Relief Sought**

Applicant seeks review by the Commissioner of the papers in the Attachments showing that Applicant filed a utility patent application, entitled  
15 "System And Method For Providing Feedback To An Individual Patient For Automated Remote Patient Care," on August 22, 2003. Specifically, 37 CFR 1.10(a) provides that "Any correspondence received by the U.S. Patent and Trademark Office (USPTO) that was delivered by the 'Express Mail Post Office to Addressee' service of the United States Postal Service (USPS) will be  
20 considered filed in the USPTO on the date of deposit with the USPS." Additionally, 37 CFR 1.53(b) provides that the "filing date of an application for patent filed under this section . . . is the date on which a specification as prescribed by 35 U.S.C. 112 containing a description pursuant to § 1.71 and at least one claim pursuant to § 1.75, and any drawing required by § 1.81(a) are filed  
25 in the Patent and Trademark Office."

Applicant asserts that a proper utility patent application, entitled "System And Method For Providing Feedback To An Individual Patient For Automated Remote Patient Care," was duly filed on August 22, 2003 pursuant to 37 CFR 1.53 (b) and should be assigned a filing date of August 22, 2003.

30 Accordingly, Applicant petitions and requests the Commissioner to invoke

Petition To The Commissioner Under 37 CFR 1.181(a)  
Docket No. 020.0347.US.CON

supervisory authority pursuant to 37 CFR 1.181(a) to direct the mailing of a Filing Receipt with a filing date of August 22, 2003 and to assign a Serial Number for a utility patent application, entitled "System And Method For Providing Feedback To An Individual Patient For Automated Remote Patient Care." If the USPTO is  
5 unable to locate Applicant's file, Applicant requests a reconstruction of the file pursuant to 37 CFR 1.251 using the papers provided in Attachment 1 as originally filed on August 22, 2003, pursuant to 37 CFR 1.53(b).

Please contact the undersigned at (206) 381-3900 regarding any questions or concerns associated with the present matter.

Respectfully submitted,

Dated: April 16, 2004

By: 

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Encls.

- Atch 1 – Copy of Papers for Utility Application
- Atch 2 – USPS Tracking Log Printout
- Atch 3 – USPS Express Mailing Label, Delivery Section
- Atch 4 – Declaration by Ms. Larissa V. Pigott
- Atch 5 – Copy of Applicant's Cancelled Check for Filing Fee

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